

IN THE MATTER OF THE APPLICATION OF MILDRED M. SUTTON FOR A SPECIAL EXCEPTION FOR THE CONSTRUCTION OF A CHURCH IN AN RC-4 ZONE S/S OF SHAWAN ROAD 2400' E. OF BEAVER DAM ROAD 8th DISTRICT

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NO. 84-130-X

OPINION

This case comes before this Board on an appeal from a decision of the Deputy Zoning Commissioner granting, with restrictions, the Petitioner's request for a special exception to permit the construction of a church in an RC-4 zone. The subject site is located on the south side of Shawan Road 2400 feet east of Beaver Dam Road, in the Eighth Election District of Baltimore County.

Father George Romley, a Priest of the Nativity of the Theotokos Orthodox Church, described the details of the proposed use of the property as well as a history of the Church whose congregation will use the proposed facility. He also described the surrounding area. The site would contain one 7,500 square foot building, a well and septic system, a small sign, outside lighting on the parking lot only, and the required parking. The surrounding community associations did not object to the proposal.

Matti A. Kassir, an engineer for the Baltimore County Department of Public Works, prepared the site plan which covers twenty-two acres. He and Craig Piette, an urban planner with Baltimore County, testified that the proposed development would have no negative impact on this rural area and met all the requirements of §502.1 of the Baltimore County Zoning Regulations (BCZR). A real estate expert, Mr. James Howard, concurred with the previous testimony.

There was testimony and evidence produced during this hearing that all the requirements of §502.1 of BCZR would be met by the Petitioner. The proposed use will not be detrimental to the health, safety or general welfare of the community, would not tend to create congestion in roads, nor be inconsistent with the spirit and

MILDRED M. SUTTON - #84-130-X

intent of the zoning regulations. The Board will, therefore, affirm the Order of the Deputy Zoning Commissioner.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 19th day of September, 1984, by the County Board of Appeals, ORDERED that the Order of the Deputy Zoning Commissioner, dated November 22, 1983, be and is hereby AFFIRMED and that the special exception petitioner for, be and the same is hereby GRANTED, subject to the following restrictions:

1. Compliance with CRG requirements
2. A detailed landscaping plan shall be submitted to and approved by the Current Planning and Development Division of the Office of Planning and Zoning
3. Approval of a site plan by the Office of Planning and Zoning

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett, Chairman

Patricia Phipps

Keith S. Franz

IN RE:

PETITION FOR SPECIAL EXCEPTION S/S Shawan Road, 2,400' E. of Beaver Dam Road, 8th District
MILDRED M. SUTTON
and
NATIVITY OF THE THEOTOKOS ORTHODOX CHURCH

* BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY
* Case No. 84-130-X

Petitioners

MOTION TO DISMISS APPEAL FOR LACK OF STANDING

Statement of the Case

On November 22, 1983, the Deputy Zoning Commissioner for Baltimore County granted a Special Exception for the construction of a church in an RC-4 zone. A copy of her decision is attached hereto as Exhibit A and made a part hereof. The Petition was filed by the Nativity of the Theotokos Orthodox Church ("Church"), the contract purchaser for the lot of ground owned by Mildred Sutton, described in the plat attached to the petition and attached hereto as Exhibit B ("Property"). B. Merryman Kemp, who was not present at the hearing before the Deputy Zoning Commissioner, filed an appeal of that decision on December 21, 1983 with the Baltimore County Board of Appeals. The only reason that Kemp noted his appeal was to avenge his own unsuccessful zoning efforts. Thus Kemp has no standing to bring

the appeal since he is not an "aggrieved" person within the meaning of §22-32 of the Baltimore County Code. Therefore the Church, as contract purchaser of the Property, hereby moves, through counsel, to dismiss Kemp's appeal. Alternatively, the Church requests this Board to require Kemp, prior to the hearing date, to prove that he has been legally aggrieved by the Deputy Zoning Commissioner's action, and did not appeal in bad faith.

Kemp has not been "aggrieved" by the grant of a special exception etc, therefore, has no standing to bring this appeal.

A person who in bad faith uses the zoning process other than to protect his property rights or legal interests as a property owner and inflicts needless expense on innocent parties cannot be allowed the opportunity to burden the docket of the County Board of Appeals. Although Kemp, as a taxpayer, is allowed to appeal the decision of the hearing hearing officer to the County Board of Appeals, his right is limited in one respect: he must be aggrieved by the decision.¹ Since Kemp, for

¹ The Baltimore County Charter §22-32 sets forth the legal interest a third party must have in order to bring an appeal to the Board:

Any person or persons, jointly or severally (i.e., or any employee or any official, officer, department, board or bureau of the county, feeling aggrieved by any decision of the hearing commissioner shall have the right to appeal therefrom to the county board of

the reasons stated below, has abused the Baltimore County Zoning appeal procedures, he should not be accorded that status.

Prior to Kemp's appeal and prior to the filing of the Church's petition for a special exception, Kemp requested Baltimore County to change the zoning on his property, located near this Property, from an RC-4 use to an RC-5 use. His purpose in seeking the zoning change was to allow him or his contract purchaser to build a residential project with greater density of population than now allowed in the RC-4 zone. The property owners and community associations surrounding those properties owned by Kemp bitterly fought, and continue to fight, such a change and to this point, have been successful. By contrast the same community associations by letter to the Deputy Zoning Commissioner, a copy of which is attached hereto as Exhibit C, elected not to oppose the Church's petition.

The only reason for this appeal is Kemp's bitterness at the opposition to his zoning plans which have halted his plans for development of his properties. This is reflected in the Affidavit, attached as Exhibit D and made a part hereof, of

appeals. Notice of such appeal shall be filed, in writing, with the zoning commissioner within thirty (30) days from the date of any final order appealed from, together with the required fee as provided in the zoning regulations.

Father George Romley, pastor of the Church, who on December 21, 1983, was confronted by Kemp on the Property:

After I told him [Kemp] that the Zoning Department had approved the special exception and that the community associations of the area had given us their unanimous approval in writing, he went on to call the community associations a bunch of "pricks (sic)" and the Zoning Department a bunch of "bastards."

He told me that he would be damned if we could build something on our land if he could not on his land. All in all it was a very rude exchange on his part and being a priest I remained polite throughout.

Thus Kemp's true interests in filing the appeal have no relation to his interests as a nearby property owner. His real and only interest in appealing is to thwart the zoning efforts of nearby property owners in whatever way possible to avenge his own unsuccessful zoning change requests, and development plans.

Although §22-32 of the County Code broadly confers standing to appeal a Zoning Hearing Officer's decision, the Maryland courts have limited standing to only those persons who have a real legal interest in the subject matter of the zoning controversy, which interest the zoning laws were intended to protect.

In T&R Joint Venture v. Office of Planning and Zoning of Anne Arundel County, 47 Md. App. 395 (1980), the Court of Special Appeals, while interpreting a similar statute under the Anne Arundel Code, defined a third party's right to appeal a zoning action to the County Board of Appeals. The issue in T&R Joint Venture, as in this Motion, was whether a third party was so aggrieved as to have standing to appeal the Zoning Hearing Officer's decision to the County Board of Appeals. The Court held at 401:

The condition of "aggrievement," of being "aggrieved," is a common prerequisite in the laws relating to administrative appeals, and particularly in zoning cases. The Court of Appeals first articulated some general standards or guidelines for determining who satisfies that condition (and who does not) in Brynarski v. Montgomery County, 247 Md. 137 (1967). Though dealing there with the question of standing to appeal from a Board of Appeals rather than to it, the concepts are the same, it seems to us, in that the standard is still the requisite interest the would-be appellant must have in the decision he seeks to set aside. The Court noted, at p. 144:

Generally speaking, the decisions indicate that a person aggrieved by the decision of a board of zoning appeals (read here, zoning hearing officer) is one whose personal or property rights are adversely affected by the decision of the board. The decision must not only affect a matter in which the protes-

tant has a specific interest or property right but his interest therein must be such that he is personally and specifically affected in a way different from that suffered by the public generally.

(Emphasis and inserts in original.)

Aggrievement is not established by the mere fact that one owns property in close proximity to another who has been granted a variance or exception. In order to qualify, a third party should be a nearby property owner and must prove special damages which are not generally shared with other property owners similarly situated. Brynarski, supra.

Obviously a third party, who in bad faith, knowing he has not been affected as a property owner by the grant of a special exception, notes an appeal to a zoning decision, should not be allowed the opportunity to abuse the process. When Kemp appealed the special exception grant to the Church, he was not aggrieved, i.e., he was not personally and specially affected in a way different from that suffered by the public generally nor was any personal or property right of his adversely affected. Of course he may have been upset that the Church was granted a special exception, while his request for zoning change was denied,² but that is not an interest that the zoning laws were

² A special exception shares the presumption that the use is in the interest of the general welfare. Reidville Builders,

intended to protect. Kemp's use of the zoning process to protect such an interest is an abuse and not only causes an unnecessary burden to the Board of Appeals but increases the burden and expense to the Church.

Petitioner, through counsel, requests that the Baltimore County Board of Appeals deny Kemp standing to appeal the Deputy Zoning Officer's decision, or in the alternative require Kemp to prove to this Board that his appeal was not brought in bad faith and that he has been specially damaged by the decision of the Deputy Zoning Officer which damages are not generally shared by other nearby or adjoining property owners.

Michael S. Scher
Stephen J. Stefak
Michael S. Scher
Tydings & Rosenberg
201 North Charles Street
26th Floor
Baltimore, Maryland 21201
(301) 752-6100

Attorneys for Nativity of the
Theotokos Orthodox Church

Board of Appeals, 257 Md. 183 (1970). A zoning change request creates no such presumption and therefore creates a much heavier burden for a petitioner to prove its case.

- 7 -

IN RE:

PETITION FOR SPECIAL * BEFORE THE
EXCEPTION * BOARD OF
275 Shawan Road, * APPEALS OF
2,400'E of Beaver Dam *
Road, 8th District * BALTIMORE COUNTY
MILDRED M. SUTTON *
and *
NATIVITY OF THE *
THEOTOKOS ORTHODOX * Case No. 84-130-X
CHURCH *

* * * * *

PETITIONER'S MEMORANDUM OF LEGAL ARGUMENT

The Maryland Court of Appeals on several occasions has held that, generally, a special exception is a use which has been legislatively predetermined by the local legislature to be conditionally compatible with the uses permitted as of right in a particular zone. Creswell v. Baltimore Aviation, 257 Md. 712 (1970). Therefore, such a use is presumed to be in the interests of the general welfare, and to promote the public safety, health and morals. County Commissioners of Queen Anne's County v. Miles, 246 Md. 355, 364 (1967).

This Board, in any special exception hearing, has the limited duties of judging upon the evidence whether neighboring properties and the general neighborhood would be adversely affected by granting an exception and whether the use is in

harmony with the intent of the zoning regulations. Rockville Fuel v. Board of Appeals, 257 Md. 183 (1970).

The applicant seeking a special exception has only the burden of adducing testimony which will show that its use meets the prescribed standards and requirements. Board of County Commissioners for Prince George's County v. Lohier, 249 Md. 1, 3 (1968). An applicant need not show affirmatively that his proposed use accords with the general welfare, or that the use will benefit the neighborhood and/or community. Schultz v. Pritts, 291 Md. 1 (1981). The applicant meets its burden by showing merely that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect public interest. Ruff v. Board of Zoning Appeals of Baltimore County, 214 Md. 48, 60-62 (1957).

A Board of Appeals may deny a special exception only if there is probative evidence of harm or disturbance to the neighborhood in light of the nature of the zone and the adverse affects of the proposed use of the proposed location would have an adverse affect above and beyond these inherently associated

1 In order for evidence in opposition to a special exception to be probative it must be something more than testimony of lay witnesses. Petitions of objection by residents, testimony amounting to unsupported dislike, and fear of a project amount to no evidence at all. Rockville Fuel, supra, 192, 193.

- 2 -

with such a use irrespective of its location within the zone. Schultz v. Pritts, supra. Otherwise a denial is arbitrary, capricious and illegal.

Based on the Maryland legal precedent and the evidence before the Board, the applicant respectfully requests its special exception petition be granted as it was below, by the Deputy Zoning Commissioner.

Michael S. Scher
Stephen J. Stefak
Michael S. Scher
Tydings & Rosenberg
201 North Charles Street
26th Floor
Baltimore, Maryland 21201
(301) 752-6100

Attorneys for Nativity of the
Theotokos Orthodox Church

- 3 -

PETITION FOR SPECIAL EXCEPTION 84-130-X

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for THEOTOKOS ORTHODOX CHURCH

IN AN AC-4 ZONE

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

NATIVITY OF THE THEOTOKOS ORTHODOX CHURCH
P. O. Box 33
Glyndon, Maryland 21071

Contract Purchaser: Michael S. Scher

Michael S. Scher
Signature

Michael S. Scher
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Michael S. Scher
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Signature

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 22 day of November, 1983, that the Petition for Special Exception for the construction of a church in a R.C.4 Zone, in accordance with the site plan marked Petitioner's Exhibit 1, is hereby GRANTED, from and after the date of this Order, subject, however, to the following:

1. Fine trees on other four foot high compact live screening shall be planted along the entire length of both the 530' east and 336' west property lines.
2. A landscaping plan, including a timetable for planting and installation, shall be approved by the Current Planning and Development Division prior to occupancy.
3. Approval of the aforementioned site plan by the Office of Planning and Zoning as well as full compliance with the C.R.G. requirements.
4. The special exception shall be utilized within 5 years.

John M. Jung
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE November 22, 1983

BY Thy Company Clerk

LAW OFFICES

TYDINGS & ROSENBERG

201 NORTH CHARLES STREET

BALTIMORE, MARYLAND 21201

TELEPHONE (301) 752-6100 CABLE ADDRESS TTYA

TELETYPE (301) 752-6100

April 2, 1984

County Board of Appeals
for Baltimore County
Room 200 Court House
Towson, Maryland 21204

RE: Case No. 84-130-X

Dear Sirs:

Please find for filing in the above captioned case, the enclosed Certificate of Service. The Certificate was inadvertently left off the Motion to Dismiss that was hand filed today by Father George Romley, representative of Petitioner.

I am sorry for any inconvenience.

Sincerely,

Michael S. Scher
Michael S. Scher

MSS/pls

Enclosure

RECEIVED
COUNTY BOARD OF APPEALS
FBI 84-4 A 27

IN RE:

PETITION FOR SPECIAL * BEFORE THE
EXCEPTION * BOARD OF
275 Shawan Road * APPEALS OF
2,400'E of Beaver Dam *
Road, 8th District * BALTIMORE COUNTY
MILDRED M. SUTTON *
and *
NATIVITY OF THE *
THEOTOKOS ORTHODOX * Case No. 84-130-X
CHURCH *

Petitioners *

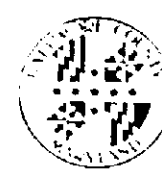
* * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of this Motion to Dismiss for Lack of Standing and attached Orders, were mailed, postage prepaid, by registered mail, return receipt requested, to R. Merryman Kemp, 823 Shawan Road, Cockeysville, Maryland 21039, mailed this 22 day of April, 1984.

Michael S. Scher
Michael S. Scher

RECEIVED
COUNTY BOARD OF APPEALS
FBI 84-4 A 27



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

November 10, 1983

Michael S. Scher, Esquire
201 N. Charles Street
Baltimore, Maryland 21201

Re: Petition for Special Exception
S/S Shawan Rd., 2,400' E of
Beaver Dam Road
Mildred M. Sutton - Petitioner
Case No. 84-130-X

Dear Mr. Scher:

This is to advise you that \$48.25 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

No. 122974

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 11/15/83 ACCOUNT R-01-615-000

AMOUNT \$48.25

RECEIVED BY Mary's Orthodox Church
FROM Advertising & Posting Case #84-130-X

FOR Validation or Signature of Cashier

RE: PETITION FOR SPECIAL EXCEPTION BEFORE THE ZONING COMMISSIONER
S/S of Shawan Rd., 2,400' E of
Beaver Dam Rd., 8th District : OF BALTIMORE COUNTY

MILDRED M. SUTTON, Petitioner : Case No. 84-130-X

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
474-2138

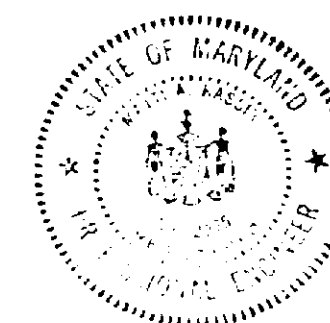
I HEREBY CERTIFY that on this 2nd day of November, 1983, a copy of the foregoing Order was mailed to Michael S. Scher, Esquire, Tydings and Rosenberg, 201 N. Charles St., Baltimore, MD 21201, Attorney for Petitioner; and Ramon Jadra, President, and George Georgiou, Secretary, Nativity of the Theotokos Orthodox Church, P. O. Box 33, Glyndon, MD 21371, Contract Purchaser.

John W. Hession, III
John W. Hession, III

DESCRIPTION FOR SPECIAL EXCEPTION

Beginning at a point on the south side of Shawan Road, 2400 feet East of Beaver Dam Road, and then running South 61°30' East 258', thence South 63°0' East 54.65'; South 34°12' West 530'; thence North 55°48' West 266.81'; thence North 26°30' West 80.32'; thence North 63°30' East 143.14'; thence North 26°38' 54" East 336.44' to the beginning point.

Nativity of the Theotokos Orthodox Church
P.O. Box 33, Glyndon, MD., 21071



PETITION FOR SPECIAL EXCEPTION

8th Election District

ZONING: Petition for Special Exception
LOCATION: S/S Shawan Road, 2,400 ft. East of Beaver Dam Road
DATE & TIME: Tuesday, November 15, 1983 at 9:45 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

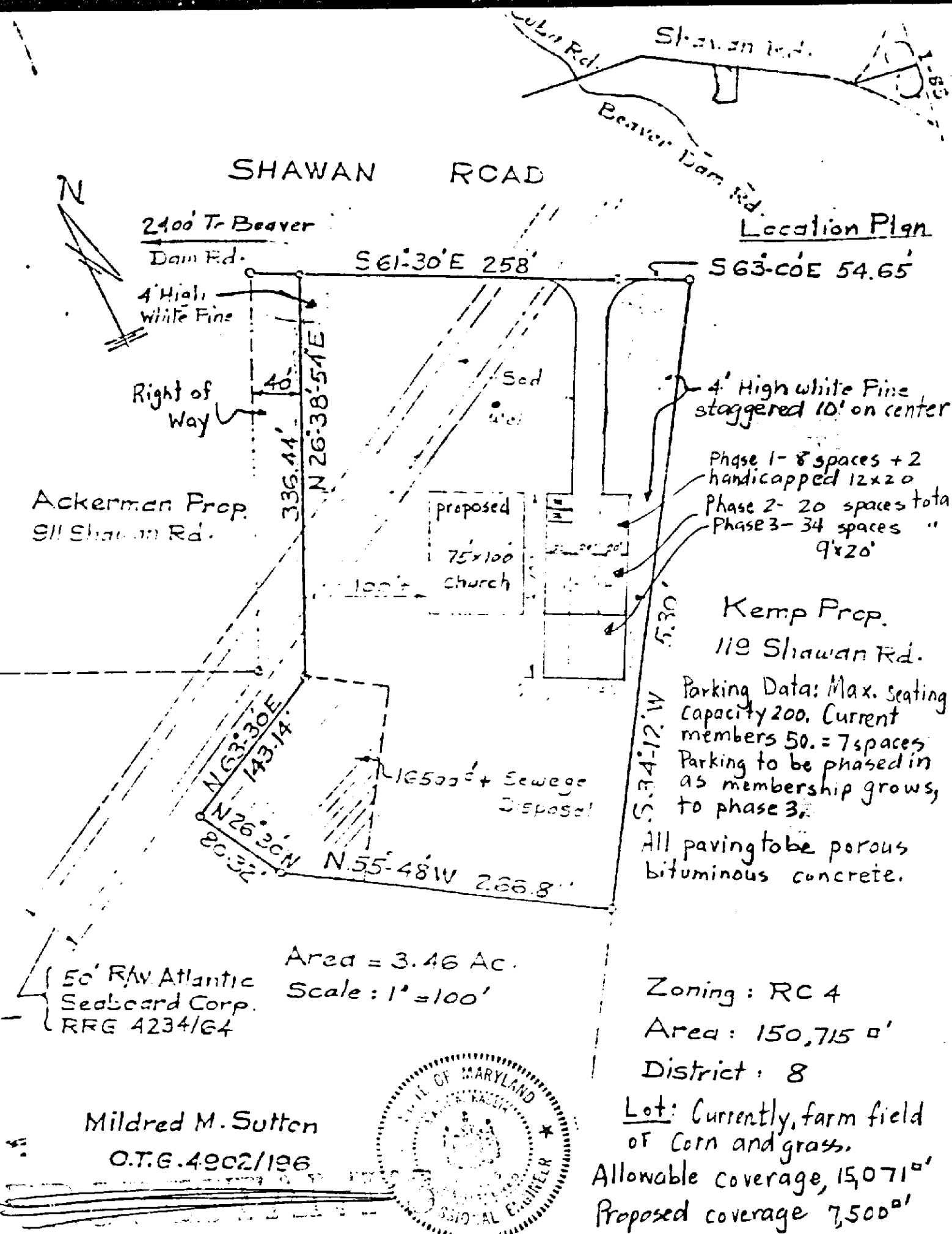
Petition for Special Exception for the construction of a church in an R.C. 4 zone

All that parcel of land in the Eighth District of Baltimore County

Being the property of Mildred M. Sutton, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY



WILLIAM N. FITZPATRICK, JR.
1926 Broadway Road
Lutherville-Timonium, Maryland 21093

November 14, 1983

Ms. Jean M. H. Jung
Deputy Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition No. 84-130-X

Dear Ms. Jung:

This letter is in reference to the Petition of the Antiochian Orthodox Church for a special exception to permit construction of a church on a 3-acre parcel adjacent to Shawan Road west of Interstate 83.

The residents of the communities surrounding the subject property are always concerned about proposals for increased development in this area. The County's growth management plan calls for preservation of the rural character of the valleys west of Interstate 83, and the residents are opposed to any zoning action which is inconsistent with this concept. In light of this concern, representatives of local community associations met with Father George Romley, the pastor of the petitioning congregation, and his attorneys on Sunday evening, November 13, 1983, to discuss the Church's plans. Attending the meeting were representatives of the Beaver Dam-Ivy Hill Association, the Chestnut Ridge Association, the Falls Road Community Association, the Greencroft Community Association, the Shawan Valley Association, and the Valleys Planning Council.

Based upon the information supplied at the meeting, the community association representatives in attendance decided not to oppose the Church's petition for a special exception. Among the factors which prompted this decision were the relatively modest size of the proposed structure and the limited number of proposed parking spaces, the absence of any plans for expansion or additional construction, the planned landscaping and other features of the petitioner's site plan, the very limited sewer and water loads which are likely to result, and the characteristics of the parcel.

PETITIONER'S
EXHIBIT 4

Ms. Jean M. H. Jung
November 14, 1983
Page TWO

In addition, it was our impression that Father George and his congregation will be responsible owners who will share our desire to maintain the quality of the area.

We were somewhat concerned with the absence of any definite architectural plans for the proposed structure, and we suggest that architectural review would be an appropriate condition of the exception.

Very truly yours,

William N. Fitzpatrick, Jr.
William N. Fitzpatrick, Jr.

WNFjr:dh

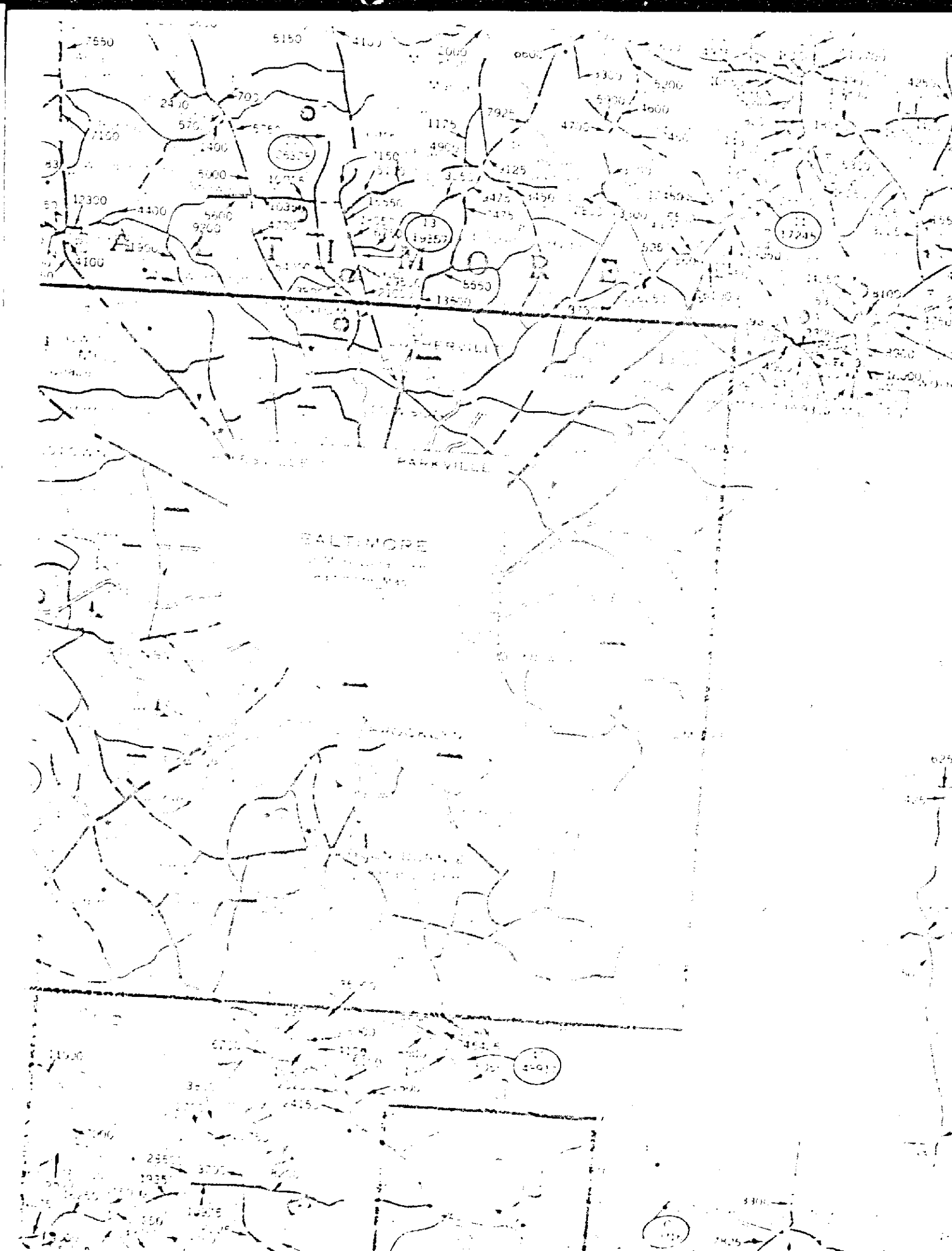
cc: Ms. Judith Baer
Stephen Sfekas, Esquire
Mrs. Martha Lessner
Mr. & Mrs. Dan Novak
Mr. A. D. McComas
Dr. Peter Dans
Mr. & Mrs. Duncan Keir
James P. Garland, Esquire

Mr. Arata:

Please post another sign on this property:

S/S Shawan Rd. 2400' E. Beaver Dam Rd.
Mildred M. Sutton, Petitioner
Case No. 84-130-X

You posted it on 1/9 but today we received a call from the Protestant-Apellant that while the stake was there neither he nor the neighbor on the other side had seen the sign. Apparently it was removed immediately. I told him we would post the property again but that we could not police it to see that the sign stayed. He requested that you call him (Mr. Kemp - 666-1760) when you were going to post and he would try to be there at that time. If he doesn't answer the phone put your message on the recorder. I told him that if the second sign did not remain, I would have to take this matter up with the Chairman as he also claimed that the sign

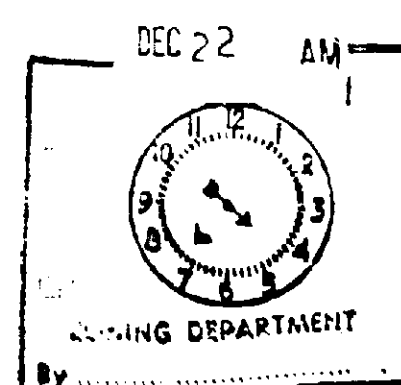


To the
Zoning Commission
for Balto. County -

10/2/83

Included please find a check for \$500.00
for the expense of appeal of the
case of Mildred Sutton (petitioner) case
number 84-130-X.

B. Merryman Kemp
Kemp Contracting
823 Shaven Rd.
Cockeysville, Md.
21030



Michael S. Scher, Esquire
Tydings & Rosenberg
201 N. Charles Street
Baltimore, Md. 21201

Ramon Jindra
109 Wabash Road
Reisterstown, Md. 21136

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
17th day of October, 1983.

Petitioner Mildred M. Sutton
Petitioner's Attorney Michael S. Scher, Esq.

Received by Arnold Jablon
Zoning Commissioner
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

DUPLICATE
CERTIFICATE OF PUBLICATION

TOWSON, MD. October 27, 1983

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., once a week
of one time successive weeks before the 17th
day of November, 1983, the first publication
appearing on the 27th day of October
1983.

THE JEFFERSONIAN
L. Frank Smith
Manager

Cost of Advertisement, \$ 2.55

PETITION FOR SPECIAL
EXEMPTION
ALL RESIDENT DISTRICT
ZONING: Petition for Special Ex-
emption
LOCATION: 818 Shaven Road
200 ft. East of Shaven Road
DATE & TIME: Thursday, Novem-
ber 18, 1983 at 10:00 A.M.
PUBLIC HEARING: Room 100,
County Office Building, 111 W.
Chesapeake Avenue, Towson,
Maryland.
The Zoning Commission of Bal-
timore County, by authority of the
County Board of Appeals, will hold a public
hearing on the petition for special exemption for
the construction of a church in an
R-4 zone.
All that parcel of land in the
northwest corner of Baltimore County
municipal District of Baltimore County
beginning at a point on the south
side of Shaven Road, 200 feet East
of Shaven Road, and then
of Shaven Road, and then
running South 87° 0' East 14.65';
thence South 34° 12' West 607'; thence
North 34° 47' West 46.87'; thence
North 20° 30' West 46.15'; thence
North 20° 30' East 46.15'; thence
North 20° 30' East 46.15' to the
beginning point.
Being the property of Mildred M.
Sutton, as shown on plat plan filed
with the Zoning Department.
In the event that this petition is
granted, a building permit may be
issued within the thirty (30) day
period. The Zoning Commission
will, however, entertain any
request for a stay of the issuance
of said permit during the hearing
period. If the request for a stay
of said permit is granted, the
request must be received in writing by
the Zoning Department on or before
the date of the hearing set above or
made at the hearing.
BY ORDER OF THE
ARNOLD JABLON
Zoning Commissioner
of Baltimore County
Oct. 27

154947 p67

CERTIFICATE OF PUBLICATION

TOWSON, MD. 10/31/1983

THIS IS TO CERTIFY, that the annexed
advertisement was published in THE TOWSON
TIMES, a weekly newspaper distributed in
Towson, Baltimore County, Md., once a
week for 1 successive weeks,
the first publication appearing on the
26th day of Oct 1983.

THE TOWSON TIMES
M. J. Sullivan

Cost of Advertisement, \$ 2400

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8th
Posted for: Appeal
Petitioner: Mildred Sutton
Location of property: 818 Shaven Road, Towson, Md.
Location of Signs: 818 Shaven Road, Towson, Md.
Remarks: Appeal for special exemption
Posted by: Arnold Jablon
Number of Signs: 1
Date of Posting: Jan 2, 84
Date of return: Jan 2, 84

CERTIFICATE OF POSTING
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County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
April 3, 1984

Michael S. Scher, Esquire
201 N. Charles Street
Baltimore, Maryland 21201

Ret. Case No. 84-130-X
Mildred M. Sutton

Dear Mr. Scher:
As of April 2, 1984, the County Board of Appeals has received
from Michael S. Scher, Esquire, attorney for the Nativity of the Theotokos
Orthodox Church a motion requesting a dismissal of the appeal by B. Merryman
Kemp for lack of standing in the above entitled case.

Since Mr. Kemp is an adjoining property owner and feels
aggrieved by the special exception petitioned for, the Baltimore County
Charter gives him the right to appeal the decision of the Deputy Zoning
Commissioner to this Board. However, merely being an adjoining neighbor
does not constitute aggravation but does give him the right to appeal the
decision and demonstrate his aggravation.

Therefore, on April 24, 1984, the scheduled hearing on this
case will be first confined to the matter of the Motion for Dismissal. If in
these preliminary proceedings no actual damage to Mr. Kemp from the
proposed special exception can be indicated, the Board will grant the Motion
for Dismissal.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman

cc: B. Merryman Kemp
Phyllis C. Friedman

NATIVITY OF THE THEOTOKOS ORTHODOX CHURCH

ST. MARY'S
101 CHURCH LANE, COCKEYSVILLE, MARYLAND, 21030
801-252-6720

REV. FR. GEORGE F. ROMLEY
501-833-3510

CHURCH MAILING ADDRESS
P.O. BOX 53, GLYNDEN, MARYLAND 21071

October 12, 1983

Mr. Arnold Jablon
Zoning Commissioner
Baltimore, County
Towson, MD, 21204

Dear Mr. Jablon,

Please allow me to introduce myself; I am Father George F. Romley,
pastor of the Nativity of the Theotokos Orthodox Church.

Recently we applied for a special exception in order to build a
church in an R-4 zone. We submitted the site plan and the other
required documents. I understand that there may be a longer than
usual waiting period for a zoning hearing due to the heavy burden
of cases before the Zoning Commission at this time.

We are bound by our contract closing date which is November 22, 1983.
For your information the item reference number is #88. The church
is requesting, if possible that our zoning hearing be scheduled prior
to this date so we can meet this deadline and take the needed and
required steps in order to begin the next phase of planning the church.

I sincerely thank you in advance for your kind attention to this
matter. If you need to reach me by phone you may do so by calling my
home which is 661-1008 or the 24 hour church answering service number
which is 252-6720.

ANTHOCHIAN ORTHODOX CHRISTIAN ARCHDIOCESE

Again my thanks and that of my committee and my people. I
have also enclosed a copy of the page of our contract that pertains
to the closing date so that you can have the opportunity to see
it in writing.

Sincerely,
Rev. Fr. George F. Romley

FR:tt
Enclosure

CONTRACT OF SALE

THIS CONTRACT OF SALE, hereinafter "Contract," is made
as of this 22 day of July, 1983, by and between
MILDRED M. SUTTON, unmarried, Seller, and ST. MARY'S ORTHODOX
CHURCH, a/k/a NATIVITY OF THEOTOKOS ORTHODOX CHURCH, Buyer.

For and in consideration of the terms of this Con-
tract, Seller and Buyer agree as follows:

1. Property and Purchase Price. Seller does hereby
bargain and sell unto Buyer, and Buyer does hereby purchase from
Seller, the property situate and lying in Baltimore County,
State of Maryland, and described in Exhibit A, which is attached
hereto and made a part hereof, together with all of the rights
and appurtenances thereto belonging or in any way appertaining,
hereinafter "Property," at and for the purchase price of FIFTY
THOUSAND DOLLARS (\$50,000.00).

2. Deposit. Simultaneously with the execution
hereof, Buyer has delivered the deposit of Five Thousand Dollars
(\$5,000.00), hereinafter "deposit," to Seller. Seller hereby
acknowledges the receipt of the deposit. Such deposit shall be
applied to the purchase price at settlement. If this Contract
is terminated for any reason, other than Buyer's default, then
the deposit must be returned immediately to Buyer. In the event
of any default or breach by Buyer, Seller shall receive the
deposit as liquidated damages, and not as a penalty, as Seller's
sole remedy in law, equity, or otherwise for any such breach or
default.

3. Settlement. Settlement shall be held within 120
days after execution of this Contract. However, if Buyer has
made reasonable efforts to obtain the necessary authorization,
to construct, maintain, and/or operate on the property the

4. Entire Agreement. This Contract constitutes the
entire agreement between Seller and Buyer. Both agree, repre-
sent, and warrant to each other that each has not entered into
this Contract in reliance on any representation, promise, or
statement other than those contained in this Contract. This
Contract cannot be modified in any way except in writing and
signed by both parties.

IN WITNESS WHEREOF, Seller has signed and set her seal
to this Contract and Buyer has caused this Contract to be signed
and its seal set hereto, all being done as of the day, month,
and year first-above written.

WITNESS:

David Jindra

Mildred M. Sutton (SEAL)
Seller

WITNESS:

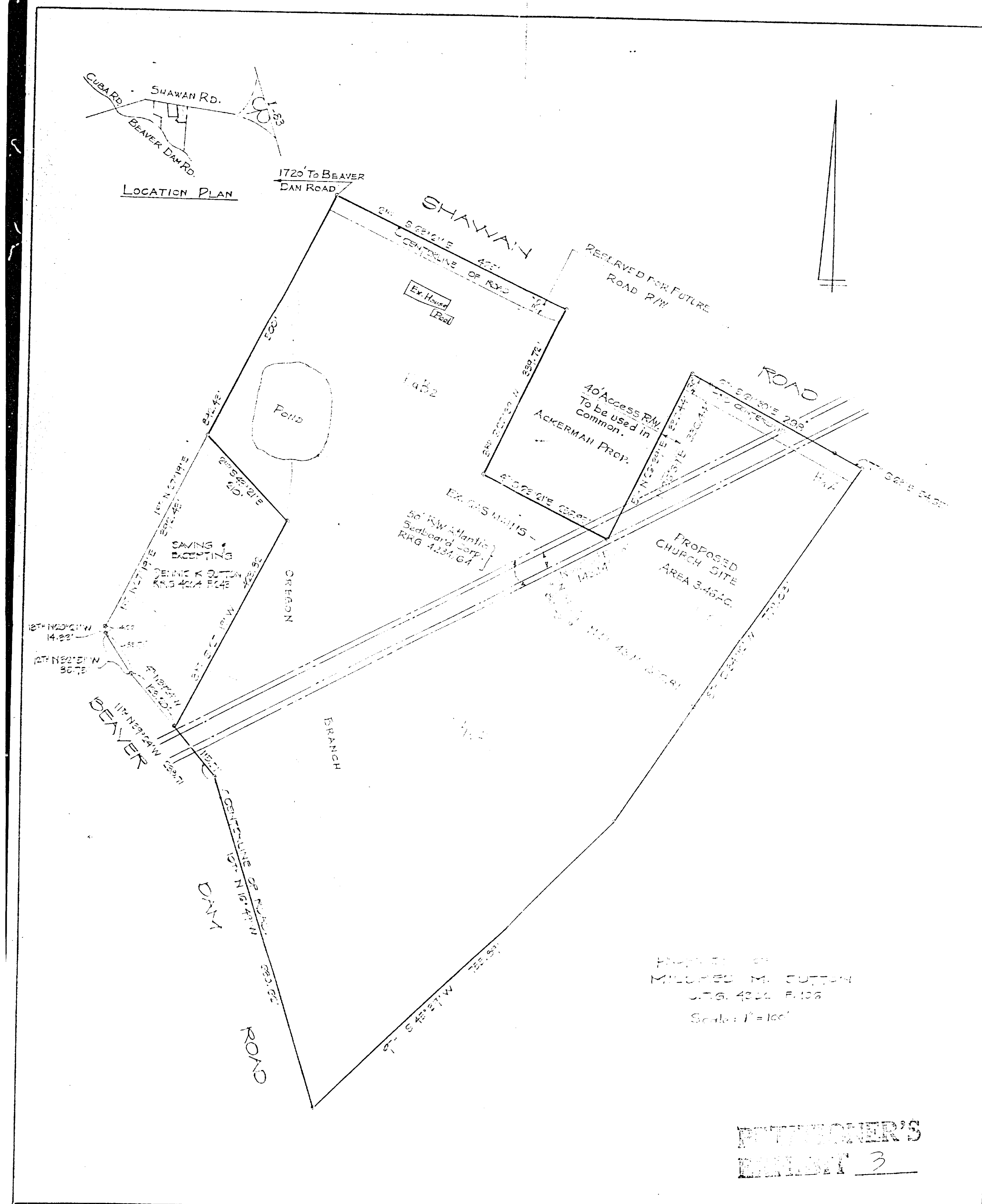
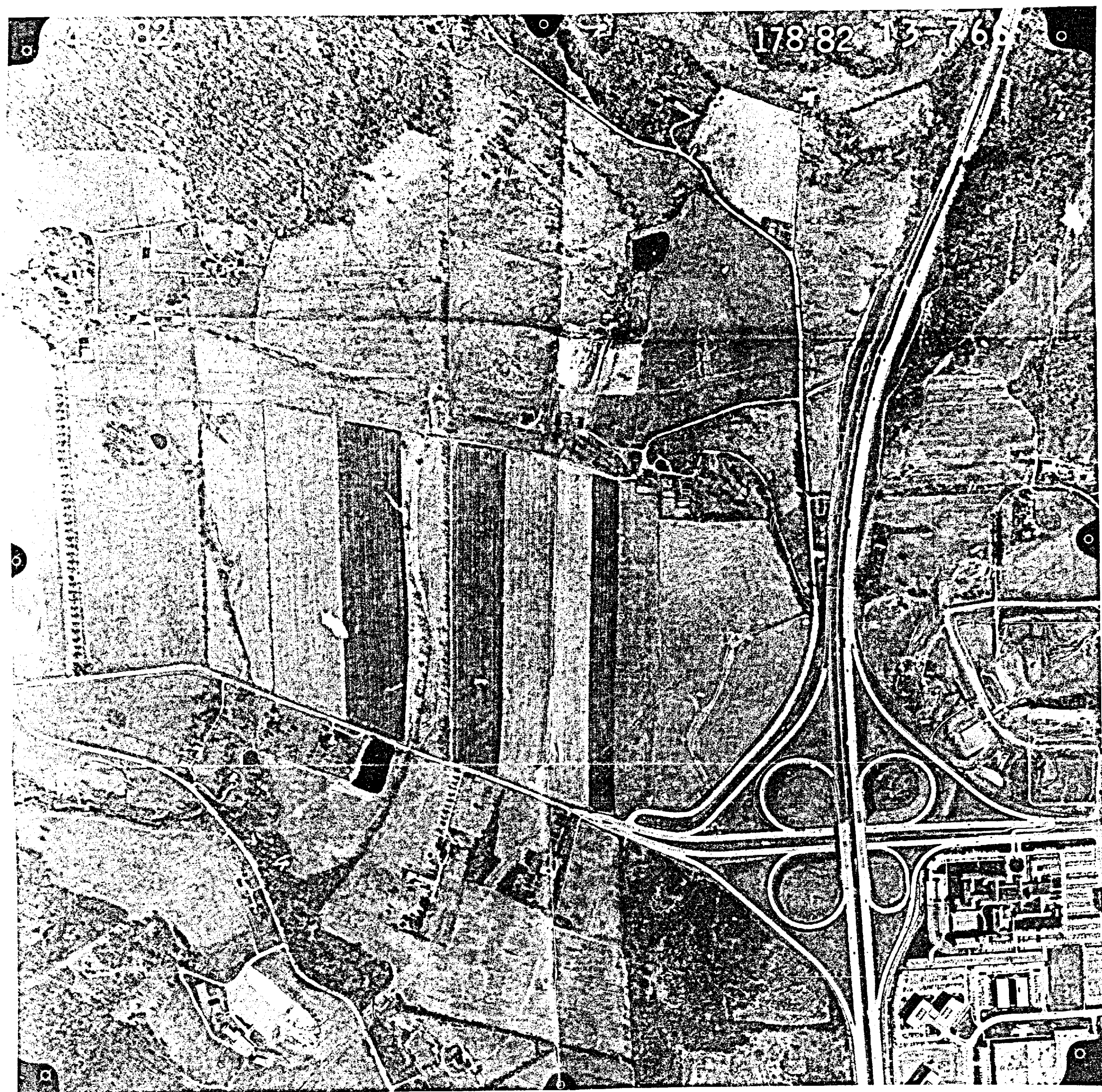
ST. MARY'S ORTHODOX CHURCH,
NATIVITY OF THEOTOKOS ORTHODOX CHURCH

Harold Jindra

By: Ramon Jindra, President

David Jindra

By: George F. Romley (SEAL)
George F. Romley, Secretary
Buyer



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

November 9, 1983

Michael S. Scher, Esquire
Tydings and Rosenberg
201 N. Charles Street
Baltimore, Maryland 21201

RE: Case No. 88-130-X (Item No. 88)
Petitioner - Mildred M. Sutton
Special Exception Petition

Dear Mr. Scher:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your client's proposal to construct a church on this vacant property, this special exception is required.

As you are aware, this petition was scheduled prior to obtaining written comments from this Committee because of the problem of time with the contract. Rather George had the plan reviewed prior to submission. However, it does not satisfy certain departments.

At the time of this writing, comments from the Department of Traffic Engineering, Fire Department and Department of Permits and Licenses were not available. I suggest that you contact Mr. Mike Flannigan (494-3524), Captain Joe Kelley (494-3985) and Mr. Ted Burman (494-3987) respectively in order to determine their comments and incorporate said comments, as well as the enclosed comments, on revised site plans.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comments that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. O'Connor
NICHOLAS B. O'CONNOR

Chairman
Zoning Plans Advisory Committee
cc: Ramon Jadra

109 Wabash Rd., Reisterstown, Md. 21136

Enclosures

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Zoning Commissioner
Date: November 3, 1983

FROM: Norman E. Gerber, Director
Office of Planning and Zoning

SUBJECT: Zoning Petition No. 88-130-X

The following comments are offered relative to details of the site plan submitted by the petitioner:

1. The right-of-way and paved section for Shawan Road must be shown.
2. Access should be via 1-24 foot wide driveway to Shawan Road. Both access and the parking layout should be designed in concert with the Department of Traffic Engineering.
3. Spaces must be set aside for parking for the handicapped, and labeled accordingly on the plan.
4. Parking computations must be shown on the plan.
5. The plan must provide the necessary information upon which an evaluation can be made of compliance with Section 103.4B.5 of the Baltimore County Zoning Regulations.
6. The compact planting located along the westernmost boundary of the site is not within the boundaries of the property under petition.

In addition to the above comments, it should be noted that a CRG meeting is required for the entire property of approximately 22 acres that is proposed to be subdivided to create the subject site.

Finally, this office cannot make final comments on the subject petition without a plan for the entire 22-acre property that includes (at the very minimum) the soils, vegetation, streams, ponds and the method of providing access for the future development of the remaining acreage.

Norman E. Gerber
Norman E. Gerber
Director of Planning and Zoning

NEB:JGH:rcv

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204HARRY J. DISTEL P.E.
DIRECTOR

November 8, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #88 (1983-1984)
Property Owner: Mildred M. Sutton
S/S Shawan Road 2400' E. of Beaver Dam Road
Acres: 3.46 District: 8th

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Shawan Road, an existing public road, is proposed to be further improved in the future on a 70-foot right-of-way.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards and Specifications.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

A tributary to Oregon Branch traverses this property. Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm. However, a minimum width of 50 feet is required.

Item #88 (1983-1984)
Property Owner: Mildred M. Sutton
Page 2
November 8, 1983

Storm Drains: (Cont'd)

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Water and Sanitary Sewer:

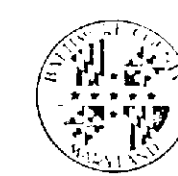
Public water supply and sanitary sewerage are not available to serve this property, which is tributary to Loch Raven Reservoir, and is beyond the Baltimore County Metropolitan District and the Comprehensive Metropolitan Facilities Planning Area. Baltimore County Water Supply and Sewerage Plans W and S-102, as amended through January 1982, indicate "No Planned Service" in the area.

Very truly yours,

Robert A. Morton
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EAM:FW:rss

V-W Key Sheet
73 NW 12 Pos. Sheet
NW 19 C Topo
42 Tax Map



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

November 15, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 88 -ZAC Meeting of October 11, 1983
Property Owner: Mildred M. Sutton
Location: S/S Shawan Road 2400' E. of Beaver Dam Road
Existing Zoning: R.C. 4
Proposed Zoning: Special Exception for a church

Acres: 3.46
District: 8th

Dear Mr. Jablon:

This site plan should be revised to show only one entrance on Shawan Road and that entrance should be located on the eastern side of the site.

Michael S. Flannigan
Traffic Engineering Assoc. II

MSF:rcv

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert V. Dubel, Superintendent

Towson, Maryland - 21204

Bates Oct 12, 1983

Mr. William E. Hubbard
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: October 11, 1983

RE: Item No. 88, 89, 90, 91 and 92
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hubbard:

The above mentioned item numbers have no adverse effect on student population.

Very truly yours,

William E. Hubbard
William E. Hubbard
Zoning Commissioner

BALTIMORE COUNTY DEPARTMENT OF HEALTH

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 88, Zoning Advisory Committee Meeting of OCT. 11, 1983

Property Owner: Mildred M. Sutton

Location: S/S Shawan Road

District: P

Water Supply: PRIVATE Sewage Disposal: PRIVATE

COMMENTS ARE AS FOLLOWS:

- (✓) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.
- (✓) Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.
- () A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

Zoning Item # 88
Page 2

- () Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled.
- () Soil percolation tests have been conducted.
 - { The results are valid until
 - { Revised plans must be submitted prior to approval of the percolation tests.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
 - { shall be valid until
 - { is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications.
- (X) All roads and parking areas should be surfaced with a dustless, bonding material.
- () No health hazards are anticipated.
- (X) Others: IF submission of plans to the County REVIEW GROUP is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.
Prior to approval of a Building Permit, soil percolation tests must be conducted and a well must be drilled meeting all of the requirements of the Baltimore County Dept. of Health.

Jan J. Forrest
Jan J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1080 (2)

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

HARRY J. DISTEL JR.
DIRECTOR
Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 88 Zoning Advisory Committee Meeting are as follows:

Property Owner: Mildred M. Sutton
Location: S/S Shawan Road 2400' E. of Beaver Dam Road
Existing Zoning: R.C. 4
Proposed Zoning: Special Exception for a Church

Acres: 3.46
District: 8th.

The items checked below are applicable:

- X A. All structures shall conform to the Baltimore County Building Code 1981/Council Bill 14-82 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.
- X B. A building/ & other miscellaneous permits shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.
- X D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. An exterior wall erected within 6'0" for commercial uses or 3'0" for One & Two Family use group on an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot lines. A firewall is required if construction is on the lot line, see Table 1401, line 2, Section 1407 and Table 1402, also Section 503.1.
- F. Requested variance appears to conflict with the Baltimore County Building Code, Section/s _____.
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the light/area requirements of Table 205 and the required construction classification of Table 1401.
- X I. Comments- Show properly marked handicapped spaces. New or proposed construction shall comply to A, B, & D above.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review), at 111 W. Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burman
Charles E. Burman, Chief
Plans Review

CEB:rcv